

CITY COUNCIL REPORT



Meeting Date: February 25, 2014
General Plan Element: *Land Use*
General Plan Goal: *Support a diversity of businesses.*

ACTION

Agent and Acquisition of Control Change for Pinnacle Peak Patio & Pinnacle Peak Brewing Co 3-LL-2014. To consider forwarding a recommendation of approval to the Arizona Department of Liquor Licenses and Control for an Agent and Acquisition of Control Change for an existing Series 6 (bar) and Series 3 (Domestic microbrewery) liquor licenses.

OWNER

Southwest Restaurant Systems

APPLICANT CONTACT

Mitchell Wayne Malinski

LOCATION

10426 E Jomax Rd

BACKGROUND

This request is for an Agent and Acquisition of Control Change of a Series 6 (bar) and Series 3 (domestic brewery) liquor license. Pinnacle Peak Patio and Brewing Company have been operating since 1996.

APPLICANT'S PROPOSAL

Goal/Purpose of Request

The applicant is seeking a favorable recommendation on an Agent and Acquisition of Control Change for a series 6 (bar) and series 3 (domestic brewery) liquor license. Mitchell Malinski is the new agent. Mitchell Malinski, Susan Malinski and Doreen McElhanon were all nominated to serve as Directors of the corporation.

STATE GUIDELINES FOR CONSIDERING AN APPLICATION

A.R.S. Section 4-203 Granting an Agent and Acquisition of Control Change.

The new agent must submit an application to the Arizona Department of Liquor Licenses & Control, which is then forwarded to the local governing body. The local governing body of the city, town or county may protest the acquisition of control within sixty days based on the capability, reliability and qualification of the person acquiring control.

OTHER LICENSES & PERMITS

Financial Management

Revenue Collection has reported that the applicant has met City licensing requirements and all fees have been paid.

Spirituous Liquor Tax Permit # Pending.

Scottsdale Transaction Privilege Sales Tax License # Pending.

IMPACT ANALYSIS

Public Safety Division.

Police Department: No Opposition

Major life safety issues: None noted.

Code Enforcement: There are no current cases of code violations at this time in relation to the liquor license.

COUNCIL OPTIONS & STAFF RECOMMENDATION

Council Options

The City Council has the option of recommending approval, denial or no recommendation to the Arizona Department of Liquor Licenses and Control.

Staff Recommendation

The City of Scottsdale staff has conducted a review and advises that the license request meets the criteria imposed for determining the capability, qualifications and reliability of the applicant.

Next Steps

The City Council's recommendation of approval, denial or no recommendation will be forwarded to the Department of Liquor Licenses and Control for their consideration.

RESPONSIBLE DEPARTMENT(S)

Planning, Neighborhood and Transportation Division

Public Safety Division

Economic Vitality Division

STAFF CONTACTS (S)

Teri Gleason, Planning Assistant, tgleason@scottsdaleaz.gov
Planning, Neighborhood and Transportation Division

James Wasson, Lieutenant, Special Assignment, jwasson@scottsdaleaz.gov
Public Safety Division


Raun Keagy, Planning, Neighborhood and Transportation Director, rkeagy@scottsdaleaz.gov
Planning, Neighborhood and Transportation

APPROVED BY

Tim Curtis, AICP, Current Planning Director
312-4210 tcurtis@scottsdaleaz.gov

 1/30/2014

Randy Grant, PNT Administrator
312-2664, rgrant@scottsdaleaz.gov

 2/4/14

ATTACHMENTS

- #1: Vicinity Map
- #2: Aerial Map
- #3: State Application



Q.S.
49-53

G.I.S. ORTHOPHOTO 2012

3-LL-2014

Pinnacle Peak Brewing Company

ATTACHMENT #1



Q.S.
49-53

G.I.S. ORTHOPHOTO 2012

3-LL-2014

Pinnacle Peak Brewing Company

ATTACHMENT #2

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

800 W Washington 5th Floor

Phoenix AZ 85007-2934

www.azliquor.gov

(602) 542-5141

3-LL-2014

APPLICATION FOR AGENT CHANGE - ACQUISITION OF CONTROL - RESTRUCTURE

Check
Appropriate
Box

☒ Agent Change

Complete Sections 1,2,3,4,6
(See Note 1 on back)

☒ Acquisition of Control

Complete Sections 1,2, (3,4 if changing Agent), 6

☐ Restructure

Complete Sections 1,2,(3,4 if changing Agent), 5,6
(See Note 2 on back)

SECTION 1 (COMPLETE THIS SECTION FOR AGENT CHANGE, ACQUISITION OF CONTROL OR RESTRUCTURE)

1. Name (INDIVIDUAL OR EXISTING AGENT (if no agent change) OR NEW AGENT OR CORPORATE OFFICER OR LLC CONTROLLING MEMBER)

MALINSKI

MITCHELL

WAYNE

060780

03073017

Last

First

Middle

Liquor License #

2. ☒ Corporation ☐ L.L.C. ☐ N/A: SOUTHWEST RESTAURANT SYSTEMS, INC. Corp. File #: 0079535-9
(Exactly as it appears on Articles of Inc. or Articles of Org.)

3. Business Name: PINNACLE PEAK PATIO & PINNACLE PEAK BREWING CO
(Exactly as it appears on license)

4. Business Address: 10426 E JOMAX RD SCOTTSDALE MARICOPA 85262
(Do not use P.O. Box Number) City COUNTY Zip

5. Is the business located within the incorporated limits of the above city or town? ☒ Yes ☐ No

6. Mailing Address: 10426 E JOMAX RD SCOTTSDALE AZ 85262
City State Zip

7. Business Phone: (480) 585-1599 Residence Phone: (480) 628-9624

8. Does this transaction involve the sale of any portion of the corporate stock? ☐ YES ☐ NO ☐ N/A If yes, submit a certified copy of minutes.

9. Has there been any change of officers? ☐ YES ☒ NO ☐ N/A If yes, submit a certified copy of minutes.

SECTION 2 (COMPLETE THIS SECTION FOR AGENT CHANGE, ACQUISITION OF CONTROL OR RESTRUCTURE)

Each person listed in Section II must submit a personal questionnaire (Form LIC0101) and a Department approved fingerprint card which may be obtained at the Dept. A person appearing in both lists need only submit one questionnaire and fingerprint card.

1. List individual owner or partners or all directors, officers in corp., members in LLC:

Last	First	Middle	Title	Residence Address	City	State	Zip
MALINSKI	MITCHELL	W	DIRECTOR & PRESIDENT	11660 N ST ANDREWS WAY	SCOTTSDALE	AZ	85254
McELHANNON	DOREEN	T	DIRECTOR & VICE PRESIDENT	6600 E DESERT COVE	SCOTTSDALE	AZ	85254
MALINSKI	SUSAN	R	DIRECTOR	11660 N ST ANDREWS WAY	SCOTTSDALE	AZ	85254

(ATTACH ADDITIONAL SHEET(S) IF NECESSARY)

2. List stockholders or controlling members owning 10% or more of Corp/LLC:

Last	First	Middle	% Owned	Residence Address	City	State	Zip
McELHANNON	DOREEN	T	49.72	6600 E DESERT COVE	SCOTTSDALE	AZ	85254
MALINSKI	SUSAN	R	13.77	11660 N ST ANDREWS WAY	SCOTTSDALE	AZ	85254
MALINSKI	MITCHELL	W	13.77	11660 N ST ANDREWS WAY	SCOTTSDALE	AZ	85254
NO ONE ELSE OWNS 10% OR MORE							

(ATTACH ADDITIONAL SHEET(S) IF NECESSARY)

Disabled individuals requiring special accommodations please call the Department

1/7/2013

Date Received 1-13-14

EV

ATTACHMENT #3

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

800 W Washington 5th Floor

Phoenix AZ 85007-2934

www.azliquor.gov

(602) 542-5141

APPLICATION FOR AGENT CHANGE - ACQUISITION OF CONTROL - RESTRUCTURE

Check
Appropriate
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☐ Agent Change

Complete Sections 1,2,3,4,6
(See Note 1 on back)

☒ Acquisition of Control

Complete Sections 1,2,(3,4 if changing Agent), 6

☐ Restructure

Complete Sections 1,2,(3,4 if changing Agent), 5,6
(See Note 2 on back)

SECTION 1 (COMPLETE THIS SECTION FOR AGENT CHANGE, ACQUISITION OF CONTROL OR RESTRUCTURE)

1. Name (INDIVIDUAL OR EXISTING AGENT (if no agent change) OR NEW AGENT OR CORPORATE OFFICER OR L.L.C. CONTROLLING MEMBER)

McELHANNON

HARVEY

R

03073017

Last

First

Middle

Liquor License #

2. ☒ Corporation ☐ L.L.C. ☐ N/A: SOUTHWEST RESTAURANT SYSTEMS, INC. Corp. File #: 0079534-9
(Exactly as it appears on Articles of Inc. or Articles of Org.)

3. Business Name: PINNACLE PEAK BREWING CO

(Exactly as it appears on license)

4. Business Address: 10426 E JOMAX RD SCOTTSDALE MARICOPA 85262
(Do not use P.O. Box Number) City COUNTY Zip

5. Is the business located within the incorporated limits of the above city or town? ☒ Yes ☐ No

6. Mailing Address: 10426 E JOMAX RD SCOTTSDALE AZ 85262
City State Zip

7. Business Phone: (480) 585-1599 Residence Phone: (480) 948-6407

8. Does this transaction involve the sale of any portion of the corporate stock? ☐ YES ☒ NO ☐ N/A If yes, submit a certified copy of minutes.

9. Has there been any change of officers? ☒ YES ☐ NO ☐ N/A If yes, submit a certified copy of minutes.

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Each person listed in Section II must submit a personal questionnaire (Form LIC0101) and a Department approved fingerprint card which may be obtained at the Dept. A person appearing in both lists need only submit one questionnaire and fingerprint card.

1. List individual owner or partners or all directors, officers in corp., members in LLC.

Last	First	Middle	Title	Residence Address	City	State	Zip
MALINSKI	MITCHELL	W	President & Director	11160 N ST ANDREWS WAY	SCOTTSDALE	AZ	85254
McELHANNON	DORFEN	T	Vice President	6602 E DESERT COVE	SCOTTSDALE	AZ	85254
MALINSKI	SUSAN	R	DIRECTOR				

(ATTACH ADDITIONAL SHEET(S) IF NECESSARY)

2. List stockholders or controlling members owning 10% or more of Corp/LLC:

Last	First	Middle	% Owned	Residence Address	City	State	Zip
McELHANNON	DORFEN	T	49.72	6602 E DESERT COVE	SCOTTSDALE	AZ	85254
MALINSKI	SUSAN	R	27.54	11160 N ST ANDREWS WAY	SCOTTSDALE	AZ	85254
MALINSKI	MITCHELL	W					

(ATTACH ADDITIONAL SHEET(S) IF NECESSARY)

Disabled individuals requiring special accommodations please call the Department

1/7/2013

Date Received _____
CSR _____

SECTION 3 (COMPLETE THIS SECTION FOR AGENT CHANGE)

1. If the corporation/L.L.C. is owned by another entity, ATTACH AN OWNERSHIP AND DIRECTOR / OFFICER / MEMBER DISCLOSURE for the parent entity. Attach additional sheets as necessary in order to disclose real people.
- As an Agent, will you be physically present and operating the licensed premises? ☐ YES ☒ NO
- If you answered YES, you must provide proof of attendance of a Department approved Liquor Law Training Course within the last five years before your application for Agent can be submitted. If "no" a manager with approved training must be submitted.

SECTION 4 (COMPLETE THIS SECTION FOR AGENT CHANGE)

To be completed by the INDIVIDUAL OR EXISTING AGENT OR CORPORATE OFFICER OR L.L.C. CONTROLLING MEMBER:

1. License Number: 0607080 & 03073017 Date of last renewal: 01/2014
2. Current Licensee or Agent: Mr. ELWANON HARVEY RAY
(Exactly as it appears on license) Last First Middle
- I, MITCHELL WAYNE MALINSKI, hereby consent to the agent appointment named herein and
(Print full name)
- agree to immediately assign a new agent in the event of the death, resignation, or discharge of this agent. I also understand that if the background report shows that I, the corporation, or any officer, director, member, or stockholder have been convicted of a felony in the past five (5) years, I will immediately surrender the license to the Arizona Department of Liquor Licenses and Control and hereby waive all rights to appeal such action.
- X Mitchell Malinski State of Arizona County of Maricopa
(Signature of INDIVIDUAL/ CORPORATE/CLUB OFFICER/MEMBER) The foregoing instrument was acknowledged before me this
- 13 day of January, 2014
Day Month Year
- My commission expires on: 09 09 2017 Elena Valdez
(Signature of NOTARY PUBLIC)

SECTION 5 (COMPLETE THIS SECTION FOR RESTRUCTURE)

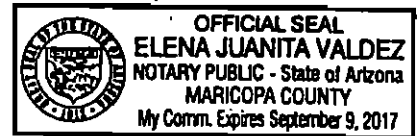
Is there more than one licensed premises involved? ☐ YES ☐ NO If yes, SEPARATE APPLICATIONS must be filed and fees paid for each license/location.

Type of current ownership:

- ☐ J.T.W.R.O.S.
☐ INDIVIDUAL
☐ PARTNERSHIP
☐ CORPORATION
☐ LIMITED LIABILITY CO.
☐ TRUST
☐ OTHER Explain _____

Type of new ownership:

- ☐ J.T.W.R.O.S.
☐ INDIVIDUAL
☐ PARTNERSHIP
☐ CORPORATION
☐ LIMITED LIABILITY CO.
☐ TRUST
☐ OTHER Explain _____



SECTION 6 (COMPLETE THIS SECTION FOR AGENT CHANGE, ACQUISITION OF CONTROL OR RESTRUCTURE)

To be completed by INDIVIDUAL OR EXISTING AGENT (If no agent change) OR NEW AGENT OR CORPORATE OFFICER OR L.L.C. CONTROLLING MEMBER as listed in Question 1 Section 1:

- I, MITCHELL MALINSKI, hereby declare that I am the APPLICANT filing this application.
(Print full name)

have read the application and the contents and all statements are true, correct and complete.

- X Mitchell Malinski State of ARIZONA County of MARICOPA
(Signature of INDIVIDUAL OR AGENT) The foregoing instrument was acknowledged before me this
- 13 day of January, 2014
Day Month Year
- My commission expires on: 10/31/2016 Jason Gourley
(Signature of NOTARY PUBLIC) Notary Public
Maricopa County, Arizona
(Signature of Notary Public Expires 10-31-16)

NOTE 1: The fee for an agent change MUST be submitted with this application: \$100.00 for the first application and \$50.00 for each additional application, not to exceed \$1,000.00. (A.R.S. 4-209.H)

NOTE 2: The \$100.00 fee for restructure/acquisition of control MUST be submitted with this application. (A.R.S. 4-209.A)